

08:29AM

1

IN THE UNITED STATES DISTRICT COURT

2

FOR THE DISTRICT OF HAWAII

3

UNITED STATES OF AMERICA, )

CRIMINAL NO. 19-00099-DKW

4

Plaintiff, )

Honolulu, Hawaii

5

vs. )

April 3, 2024

6

MICHAEL J. MISKE, JR., )

TESTIMONY OF MARK LAPENA

7

Defendant. )

8

9

PARTIAL TRANSCRIPT OF JURY TRIAL (DAY 42)

10

BEFORE THE HONORABLE DERRICK K. WATSON,

11

CHIEF UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

12

For the Plaintiff:

13

MARK INCIONG, ESQ.

14

MICHAEL DAVID NAMMAR, ESQ.

15

WILLIAM KE AUPUNI AKINA, ESQ.

16

AISLINN AFFINITO, ESQ.

17

Office of the United States Attorney

18

PJKK Federal Building

19

300 Ala Moana Boulevard, Suite 6100

20

Honolulu, Hawaii 96850

21

For the Defendant:

LYNN E. PANAGAKOS, ESQ.

22

841 Bishop St., Ste 2201

23

Honolulu, HI 96813

24

MICHAEL JEROME KENNEDY, ESQ.

25

Law Offices of Michael Jerome

26

Kennedy, PLLC

27

333 Flint Street

28

Reno, NV 89501

29

Official Court Reporter:

Gloria T. Bediamol, RPR RMR CRR FCRR

30

United States District Court

31

300 Ala Moana Boulevard

32

Honolulu, Hawaii 96850

33

Proceedings recorded by machine shorthand, transcript produced

34

with computer-aided transcription (CAT).

35

1	I N D E X	
2	<u>GOVERNMENT WITNESS:</u>	<u>PAGE NO.</u>
3	MARK LAPENA	
4	DIRECT EXAMINATION BY MR. AKINA	4
5	CROSS-EXAMINATION BY MR. KENNEDY	23
6	REDIRECT EXAMINATION BY MR. AKINA	32
7	<u>EXHIBITS:</u>	<u>PAGE NO.</u>
8	Exhibit 9-585 was received in evidence	16
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 April 3, 2024 10:59 a.m.

08:39AM 2 THE CLERK: Criminal Number 19-00099-DKW-KJM, United

08:39AM 3 States of America versus Michael J. Miske, Jr.

08:39AM 4 This case has been called for jury trial, day 42.

08:39AM 5 Counsel please make your appearances for the record.

08:39AM 6 MR. INCIONG: Good morning, Your Honor. Mark Inciong,

08:39AM 7 Michael Nammar and KeAupuni Akina for the United States along

08:39AM 8 with Special Agent Thomas Palmer and Kari Sherman. Good

08:39AM 9 morning.

08:39AM 10 THE COURT: Good morning.

08:39AM 11 MR. KENNEDY: Good morning, Your Honor. Michael

08:39AM 12 Kennedy, here with Lynn Panagakos, Michael Miske, Ashley King

08:39AM 13 and Josh Barry good morning to you all. Good morning to you.

10:58AM 14 --oo0oo--

10:58AM 15 THE COURT: Back from our first break of the trial

10:58AM 16 day. The government may call its next witness.

10:59AM 17 MR. AKINA: Government calls Mark Lapena.

10:59AM 18 THE CLERK: Please raise your right hand.

10:59AM 19 MARK LAPENA,

10:59AM 20 called as a witness, having been first duly sworn, was examined

10:59AM 21 and testified as follows:

10:59AM 22 THE CLERK: Please state your full name spelling your

10:59AM 23 last name for the record.

10:59AM 24 THE WITNESS: Hi. My name is Mark Lapena. Last name

10:59AM 25 is, L-A-P-E-N-A.

10:59AM 1 DIRECT EXAMINATION

10:59AM 2 BY MR. AKINA:

10:59AM 3 Q Good morning.

10:59AM 4 A Good morning.

10:59AM 5 Q Where were you born?

10:59AM 6 A Philippines.

10:59AM 7 Q And when did you come to the United States?

10:59AM 8 A 1992.

10:59AM 9 Q Would you mind pulling the microphone down to your --

10:59AM 10 A 1992.

10:59AM 11 Q And what type of work do you do currently?

11:00AM 12 A Detailing, auto detailing.

11:00AM 13 Q How -- about how long have you been doing auto detailing?

11:00AM 14 A Pretty long time.

11:00AM 15 Q Do you own your own business?

11:00AM 16 A Yes, I do.

11:00AM 17 Q Previously have you ever worked at Kama'aina Termite and

11:00AM 18 Pest Control?

11:00AM 19 A Yes, sir.

11:00AM 20 Q And who hired you?

11:00AM 21 A Mike and Dave Melton.

11:00AM 22 Q Mike, what is Mike's last name?

11:00AM 23 A Mike Miske.

11:00AM 24 Q And you said Dave Melton also?

11:00AM 25 A Yes.

11:00AM 1 Q Who was in charge at that time?

11:00AM 2 A Mike Miske.

11:00AM 3 Q What years did you work for Michael Miske at Kama'aina

11:00AM 4 Termite and Pest Control?

11:00AM 5 A 2011 to 2014.

11:00AM 6 Q And what did you do while you worked there?

11:01AM 7 A Just detailing cars, clean.

11:01AM 8 MR. AKINA: I want to publish Exhibit 5-22 already in

11:01AM 9 evidence.

11:01AM 10 THE COURT: Go ahead.

11:01AM 11 THE WITNESS: Yes, yeah.

11:01AM 12 BY MR. AKINA:

11:01AM 13 Q Do you recognize this location?

11:01AM 14 A Yes, sir.

11:01AM 15 Q What is this?

11:01AM 16 A Kama'aina Pest Control.

11:01AM 17 Q Did you work here at this location?

11:01AM 18 A Yes, sir.

11:01AM 19 Q So you would detail cars at this location for Kama'aina

11:01AM 20 Termite and Pest Control?

11:01AM 21 A Yes, sir.

11:01AM 22 Q Initially when you first started working for Mr. Miske,

11:01AM 23 how were you paid?

11:01AM 24 A Was cash.

11:01AM 25 Q Did that ever change?

11:01AM 1 A Yes, sir.

11:01AM 2 Q Explain that. How did it change?

11:01AM 3 A From cash and then to payroll.

11:02AM 4 Q And who's -- did you have to ask for that?

11:02AM 5 A Yes, I had -- I had to be paid in payroll.

11:02AM 6 Q All right. So who did you ask to -- who did you talk to

11:02AM 7 about getting paid on -- getting on payroll?

11:02AM 8 A Mike.

11:02AM 9 Q You asked him to put you on payroll?

11:02AM 10 A Yes.

11:02AM 11 Q Why was that important to you?

11:02AM 12 A Because there was -- because I'm a single dad, so I need

11:02AM 13 some kind of like -- you know, show approval for ...

11:02AM 14 Q You needed to -- you needed proof of something?

11:02AM 15 A Yes. For welfare.

11:02AM 16 Q For welfare?

11:02AM 17 A Yeah.

11:02AM 18 Q So you had to prove that you were being paid and employed?

11:02AM 19 A Yes.

11:02AM 20 Q Okay. So while you were being paid cash, you weren't

11:02AM 21 receiving anything like a pay stub?

11:02AM 22 A I can't -- I can't apply for welfare.

11:02AM 23 Q And when you were being paid cash, were you -- you didn't

11:02AM 24 have pay stubs it sounds like?

11:02AM 25 A Yes.

11:03AM 1 Q So when you were paid cash, were things like taxes taken

11:03AM 2 out of your paycheck or out of the cash that you were paid?

11:03AM 3 A What is that, sir?

11:03AM 4 Q When you were being paid cash, were taxes taken out of

11:03AM 5 that by your employer?

11:03AM 6 A No, sir.

11:03AM 7 Q When you were paid cash, who would actually give you the

11:03AM 8 cash? When you were paid cash, who would give you the cash?

11:03AM 9 A What was -- what is that, sir?

11:03AM 10 Q When you were paid in cash, who would give you the cash?

11:03AM 11 A Mike, Mike Miske.

11:03AM 12 Q Where would -- where at Kama'aina Termite and Pest Control

11:03AM 13 would you be when Mike typically gave you cash?

11:03AM 14 A At his office.

11:03AM 15 Q When you went to payroll, was that completely -- were you

11:03AM 16 completely on payroll initially?

11:03AM 17 A For a little bit.

11:04AM 18 Q Okay. Was there ever a time where you were also a mix of

11:04AM 19 partially on payroll and partially paid in cash?

11:04AM 20 A Yes, sir.

11:04AM 21 Q And so how did that progress? You went from being paid in

11:04AM 22 cash and then what happened after that?

11:04AM 23 A And then going to half and half.

11:04AM 24 Q Half and half. Half cash, half payroll?

11:04AM 25 A Yes, sir.

11:04AM 1 Q Okay. And no taxes taken out of the cash portion, right?

11:04AM 2 A Yes, sir.

11:04AM 3 Q And then after that, what happened? Were you ever full

11:04AM 4 payroll after that?

11:04AM 5 A Yes.

11:04AM 6 Q Okay. And was that for about a year, a year and a half

11:04AM 7 that you were on full payroll?

11:04AM 8 A Yes, sir, around that, sir.

11:04AM 9 Q And then did that change after a period of time?

11:04AM 10 A Yes.

11:04AM 11 Q You went back to some other form of payment?

11:04AM 12 A Yes, sir.

11:04AM 13 Q Which?

11:04AM 14 A It was half and half.

11:04AM 15 Q So you worked there from 2011 to 2014, so that's about

11:05AM 16 three or four years, right?

11:05AM 17 A Yes, sir.

11:05AM 18 Q About a year, year and a half of that, you were on full

11:05AM 19 payroll, correct?

11:05AM 20 A Around that area, sir.

11:05AM 21 Q At the time that you were working for the defendant, for

11:05AM 22 Mr. Miske, sorry, did -- were you working full time?

11:05AM 23 A Yes, sir.

11:05AM 24 Q Did you receive health benefits?

11:05AM 25 A No, sir.



11:05AM 1 Q Were you ever offered health insurance?

11:05AM 2 A No, sir.

11:05AM 3 Q Would you ever do other things besides auto detailing?

11:05AM 4 A Yes, sir.

11:05AM 5 Q Are you familiar with the Row Bar?

11:05AM 6 A Yes, sir.

11:05AM 7 Q And that's -- is that near?

11:05AM 8 A Restaurant Row.

11:05AM 9 Q Restaurant Row?

11:05AM 10 A Yeah.

11:05AM 11 Q Who would -- who had you do work over there?

11:05AM 12 A Just -- just to help around.

11:05AM 13 Q And who told you to go work over there?

11:06AM 14 A Mike.

11:06AM 15 Q And while you were working at the Row Bar, did you ever

11:06AM 16 get injured?

11:06AM 17 A Yes, sir.

11:06AM 18 Q Describe that for the jury how you got hurt.

11:06AM 19 A I was working on -- on the -- the ceiling area and then I

11:06AM 20 fell off.

11:06AM 21 Q And were you able to go back to work after that?

11:06AM 22 A No. I couldn't work for like a couple weeks.

11:06AM 23 Q You were out for a couple of weeks?

11:06AM 24 A Yes.

11:06AM 25 Q Did you get any workers' comp for that?

11:06AM 1 A No, sir.

11:06AM 2 Q Did you talk to Michael Miske about that?

11:06AM 3 A Yes, sir.

11:06AM 4 Q And what did he tell you?

11:06AM 5 A It's like it's my fault.

11:06AM 6 Q So he didn't give you any money?

11:06AM 7 A No.

11:06AM 8 Q Were you paid for the time that you were out because of

11:06AM 9 your injury?

11:06AM 10 A No, I wasn't.

11:06AM 11 Q So focusing on detailing cars, what types of cars did you

11:07AM 12 detail at Kama'aina Termite?

11:07AM 13 A The company trucks and his personal cars.

11:07AM 14 Q What kind of cars did you detail that were his personal

11:07AM 15 cars?

11:07AM 16 A His Porsche and his Bronco and some of his bikes and

11:07AM 17 stuff.

11:07AM 18 Q Did you ever detail any Volkswagons?

11:07AM 19 A Yes, sir.

11:07AM 20 Q And were those like modern Volkswagons?

11:07AM 21 A It's restored, sir.

11:07AM 22 Q Restored. The Porsche, do you remember what color it was?

11:07AM 23 A It was black.

11:07AM 24 Q Would you do detailing for other people, friends of

11:07AM 25 Michael Miske?

11:07AM 1 A Yes, some of his friends.

11:07AM 2 Q Would that be done at Kama'aina Termite and Pest Control  
11:07AM 3 as well?

11:07AM 4 A Yes, sir.

11:07AM 5 Q Do you know whether or not Michael Miske was also involved  
11:08AM 6 in purchasing vehicles at auction?

11:08AM 7 A Yes, sir.

11:08AM 8 Q And would you detail any of those cars that were purchased  
11:08AM 9 at auction?

11:08AM 10 A Yes, sir.

11:08AM 11 Q While you were working at Kama'aina Termite and Pest  
11:08AM 12 Control, were there other auto detailers doing the same jobs  
11:08AM 13 that you were?

11:08AM 14 A No. It was just me.

11:08AM 15 Q While working at Kama'aina Termite and Pest Control, did  
11:08AM 16 you ever observe someone swapping license plates on vehicles?

11:08AM 17 A It's just that one occasion.

11:08AM 18 Q Tell us about that one occasion that you saw.

11:08AM 19 A It was just I was working late and then I just -- just  
11:08AM 20 witnessed that -- that -- that occasion.

11:08AM 21 Q Let's talk about who. Who did you witness doing that?

11:08AM 22 A Mike and Miller and -- and the manager for -- yeah.

11:09AM 23 Q I heard Mike and Miller and then was there a third person?

11:09AM 24 A Yes, the -- the manager. I forgot his name.

11:09AM 25 Q Let me show you some pictures.

11:09AM 1 MR. AKINA: Could we show the witness Exhibit 1-43  
11:09AM 2 which is in evidence?  
11:09AM 3 THE COURT: Go ahead.  
11:09AM 4 MR. AKINA: And if we could publish that also.  
11:09AM 5 BY MR. AKINA:  
11:09AM 6 Q Do you recognize this individual?  
11:09AM 7 A Yes, sir.  
11:09AM 8 Q Who is this?  
11:09AM 9 A Miller.  
11:09AM 10 Q Do you know his first name?  
11:09AM 11 A Miller.  
11:09AM 12 Q You know him as Miller.  
11:09AM 13 A What was that, sir?  
11:09AM 14 Q Do you know him as Miller?  
11:09AM 15 A Yes.  
11:10AM 16 MR. AKINA: Could we show the witness Exhibit 1-49  
11:10AM 17 already in evidence?  
11:10AM 18 BY MR. AKINA:  
11:10AM 19 Q Do you recognize this person?  
11:10AM 20 A Yes.  
11:10AM 21 Q Who is that?  
11:10AM 22 A Let's see. I kind of forgot his name but this is -- I  
11:10AM 23 know who's this person.  
11:10AM 24 Q Okay. And where did you see this person?  
11:10AM 25 A At the shop.

11:10AM 1 Q At the shop. Okay. So when you're telling us about  
11:10AM 2 people swapping license plates, you mentioned Miller. That was  
11:10AM 3 the previous picture we looked at?  
11:10AM 4 A Yes.  
11:10AM 5 Q Was this person also involved?  
11:10AM 6 A Yes.  
11:10AM 7 Q What was he doing?  
11:10AM 8 A Changing the license plate.  
11:10AM 9 Q So this person actually changed the license plate?  
11:10AM 10 A Yes, sir.  
11:10AM 11 Q And what type of car was that being -- was the license  
11:10AM 12 plate being changed on?  
11:10AM 13 A It's the white BMW convertible.  
11:10AM 14 Q Who's the --  
11:10AM 15 THE COURT REPORTER: A white what?  
11:10AM 16 THE WITNESS: BMW.  
11:10AM 17 BY MR. AKINA:  
11:10AM 18 Q Was that a convertible?  
11:10AM 19 A Yes, sir.  
11:10AM 20 Q And whose car was that?  
11:10AM 21 A Our manager Andi.  
11:11AM 22 Q Andi?  
11:11AM 23 A Yes.  
11:11AM 24 Q Is that a male or a female?  
11:11AM 25 A Female.

11:11AM 1 Q Do you know her last name?

11:11AM 2 A No.

11:11AM 3 Q When you saw this happening did -- with Michael Miske, the  
11:11AM 4 person that we looked at the picture of and Miller, did they  
11:11AM 5 tell you what they were going to do?

11:11AM 6 A I guess -- I guess her -- that they're going to collect.  
11:11AM 7 That's all.

11:11AM 8 Q They're going to collect?

11:11AM 9 A They're going to collect.

11:11AM 10 Q They were going to go collect something?

11:11AM 11 A Yeah.

11:11AM 12 Q And then did you see them get into the vehicle?

11:11AM 13 A Yes.

11:11AM 14 Q Do you know someone named Alfredo Cabael?

11:11AM 15 A Yes, sir. That's his name.

11:11AM 16 Q What do you mean by "that's his name"?

11:11AM 17 A The manager.

11:11AM 18 Q The manager. That was one of the managers at Kama'aina --

11:11AM 19 A Alfredo, yes.

11:11AM 20 Q All right. And how would you communicate with him?

11:12AM 21 A Cell phone.

11:12AM 22 Q And what about with Michael Miske, how would you  
11:12AM 23 communicate with him?

11:12AM 24 A Cell phone.

11:12AM 25 Q Did Michael Miske and Alfredo Cabael have one dedicated

11:12AM 1 phone number?

11:12AM 2 A No. They -- they changed numbers.

11:12AM 3 Q About how many numbers did they have?

11:12AM 4 A At that moment maybe like four or five times like that.

11:12AM 5 Q I want to show you Exhibit 9-585 which is not in evidence.

11:12AM 6 Do you recognize this?

11:12AM 7 A Yes, sir.

11:12AM 8 Q What is this?

11:12AM 9 A That's the number that they call me from.

11:12AM 10 Q Okay. Did you put all those numbers into a text message

11:12AM 11 at some point in time?

11:13AM 12 A Yes, sir.

11:13AM 13 Q And there's a boss and an Al. Who is boss?

11:13AM 14 A Mike, Mike Miske.

11:13AM 15 Q Are those all numbers that you had communicated with

11:13AM 16 Michael Miske on?

11:13AM 17 A Yes, sir.

11:13AM 18 Q And then there's another one Al, who's that?

11:13AM 19 A That's Alfredo.

11:13AM 20 Q And those are the number that you communicated with him?

11:13AM 21 A Yes, sir.

11:13AM 22 Q And there's no area code, but do you know the area code

11:13AM 23 for all these numbers?

11:13AM 24 A Yes. 808.

11:13AM 25 MR. AKINA: At this time, I'd offer 9-585 into

11:13AM 1 evidence.

11:13AM 2 THE COURT: Any objection?

11:13AM 3 MR. KENNEDY: No objection.

11:13AM 4 THE COURT: Five, excuse me. 9-585 is admitted

11:13AM 5 without objection. You may publish.

11:13AM 6 (Exhibit 9-585 was received in evidence.)

11:13AM 7 BY MR. AKINA:

11:13AM 8 Q And if we could focus on the top part "boss." So these

11:13AM 9 are numbers that you had used to communicate with Michael Miske

11:13AM 10 at different points in time?

11:13AM 11 A Yeah, that's the one was on my phone.

11:13AM 12 Q Okay. If we could focus next on Al. Are these numbers

11:14AM 13 that you used to communicate with Alfredo Cabael at -- at some

11:14AM 14 point in time?

11:14AM 15 A Yes. This is all on my phone.

11:14AM 16 MR. AKINA: We can take this down.

11:14AM 17 BY MR. AKINA:

11:14AM 18 Q At Kama'aina Termite and Pest Control, did you ever meet

11:14AM 19 someone named John Stancil?

11:14AM 20 A Yes, sir.

11:14AM 21 Q And what did you see him doing, if anything?

11:14AM 22 A Just hanging out.

11:14AM 23 Q Did you ever see him working?

11:14AM 24 A No. Just hanging out.

11:14AM 25 Q Do you know his relation to Michael Miske?



11:14AM 1 A He was the brother.

11:14AM 2 Q Did you ever speak to him on occasion, John Stancil?

11:14AM 3 A Here and there, yeah, we talk stories and say what's up.

11:14AM 4 MR. AKINA: Let me show 1-58 already in evidence.

11:14AM 5 THE COURT: Go ahead.

11:14AM 6 BY MR. AKINA:

11:14AM 7 Q Do you recognize that person?

11:14AM 8 A Yes, sir.

11:14AM 9 Q Who is that?

11:14AM 10 A That was -- that was the brother.

11:14AM 11 Q John Stancil?

11:14AM 12 A Yes, sir.

11:15AM 13 Q So would you recognize Mr. Miske if you saw him again

11:15AM 14 today?

11:15AM 15 A Yes, sir.

11:15AM 16 Q Could you take a look around this courtroom and let me

11:15AM 17 know if you see him here today? Let me know if I'm blocking

11:15AM 18 your view.

11:15AM 19 A Yes, sir.

11:15AM 20 Q Okay. Can you indicate something that he's wearing?

11:15AM 21 A Black suit.

11:15AM 22 Q Does he have a tie on?

11:15AM 23 A Yes -- uhm, no, sir.

11:15AM 24 MR. AKINA: Let the record reflect the witness has

11:15AM 25 identified the defendant.

11:15AM 1 THE COURT: Yes, the record should reflect the  
11:15AM 2 witness, Mr. Lapena's, identification of the defendant,  
11:15AM 3 Mr. Miske.

11:15AM 4 BY MR. AKINA:

11:15AM 5 Q You said you left Kama'aina Termite and Pest Control in  
11:16AM 6 2014. Why did you leave?

11:16AM 7 A It's just financial, like, I just -- because I just got my  
11:16AM 8 boy at that time and the money I making wasn't enough for pay  
11:16AM 9 the babysitters and -- and work and pay the rent and all that.

11:16AM 10 Q Did you --

11:16AM 11 A So I had to try start a business or something, so I can  
11:16AM 12 earn a little bit more.

11:16AM 13 Q Did you tell the defendant, Mr. Miske, about your decision  
11:16AM 14 to stop working there?

11:16AM 15 A Yes, sir.

11:16AM 16 Q How did he react?

11:16AM 17 A He got mad at me, sir.

11:16AM 18 Q What types of things did he say to you when he got mad?

11:16AM 19 A Something about my immigration status and stuff.

11:16AM 20 Q What about your immigration status?

11:16AM 21 A That he's going to report me.

11:16AM 22 Q He's going to report you?

11:16AM 23 A Yeah.

11:16AM 24 Q And what's your understanding --

11:17AM 25 A About my stays.

11:17AM 1 Q Sorry. Say that again.

11:17AM 2 A About my stays here like.

11:17AM 3 Q At the time did you have legal status in the U.S.?

11:17AM 4 A Yes, sir.

11:17AM 5 Q You were authorized to work?

11:17AM 6 A Yeah, I had a green card, sir.

11:17AM 7 Q Okay. And what's your understanding of what happens to  
11:17AM 8 people who don't have legal status who get reported?

11:17AM 9 A They get deported.

11:17AM 10 Q So Michael Miske threatened to get you deported?

11:17AM 11 A Yeah, something like that, sir.

11:17AM 12 Q Did Michael Miske bring up any things that he had done for  
11:17AM 13 you in the past?

11:17AM 14 A Yes, sir.

11:17AM 15 Q Tell us about that.

11:17AM 16 A Like -- like I borrow money and he let me work when I ask  
11:17AM 17 for work and stuff like that.

11:17AM 18 Q And did he bring that up to sort of get you to keep  
11:17AM 19 working for him?

11:17AM 20 A Yes, sir.

11:17AM 21 Q Did any of that change your mind?

11:17AM 22 A No, sir, because I was -- I was straight up the way I  
11:18AM 23 wanted to do.

11:18AM 24 Q How did you did you feel after this conversation?

11:18AM 25 A Scared.

11:18AM 1 Q Was -- and so did you end up going and opening up your own  
11:18AM 2 shop?  
11:18AM 3 A Yes, sir.  
11:18AM 4 Q After you quit and after you opened up your own place, did  
11:18AM 5 you hear from anyone about your work at Kama'aina Termite and  
11:18AM 6 Pest Control?  
11:18AM 7 A Yes, sir.  
11:18AM 8 Q Who reached out to you?  
11:18AM 9 A His brother.  
11:18AM 10 Q Who was that?  
11:18AM 11 A John.  
11:18AM 12 Q John reached out to you. Was that in person?  
11:18AM 13 A No. Phone call.  
11:18AM 14 Q And on this phone call, was it one or multiple phone  
11:18AM 15 calls?  
11:18AM 16 A Just that one time.  
11:18AM 17 Q And were you able to recognize his voice?  
11:18AM 18 A Yes, sir.  
11:18AM 19 Q What did he tell you?  
11:18AM 20 A He -- he was mad.  
11:19AM 21 Q He was mad. What types of things did he say?  
11:19AM 22 A That I should go back to work.  
11:19AM 23 Q Did he threaten you with anything if you didn't?  
11:19AM 24 A Yes, sir.  
11:19AM 25 Q What did he threaten you?

11:19AM 1 A If I don't go back, then he's going to break my arm and my  
11:19AM 2 leg.  
11:19AM 3 Q And after that did you get additional phone calls from  
11:19AM 4 him?  
11:19AM 5 A What was that, sir?  
11:19AM 6 Q Did you get additional phone calls from John Stancil?  
11:19AM 7 A No, sir.  
11:19AM 8 Q Did you believe him when he threatened you that he would  
11:19AM 9 break your arms and legs if you didn't go back to Kama'aina?  
11:19AM 10 A Yes, sir.  
11:19AM 11 Q Why did you believe him?  
11:19AM 12 A He was so mad in the phone with me.  
11:19AM 13 Q Say that again.  
11:19AM 14 A He was all pissed off and mad in the phone with me.  
11:19AM 15 Q Did you -- did anyone come to your place of business after  
11:20AM 16 that?  
11:20AM 17 A When I came to work, my -- my neighbor was telling me that  
11:20AM 18 couple guys was looking for me.  
11:20AM 19 Q And as a result of the phone call you got from John  
11:20AM 20 Stancil and hearing that from your neighbors, what did you do?  
11:20AM 21 A I never come to work for like a month.  
11:20AM 22 Q Why?  
11:20AM 23 A I was just scared.  
11:20AM 24 Q To this day, do you experience any fear?  
11:20AM 25 A Yes, sir.

11:20AM 1 Q Describe that.

11:20AM 2 A Just -- I'm just -- just scared.

11:20AM 3 Q Was it difficult for you to come and testify today?

11:20AM 4 A Yes, sir.

11:20AM 5 Q Were you nervous -- are you nervous about it?

11:20AM 6 A Yes, sir, I'm nervous right now.

11:20AM 7 Q Is that why you're looking down?

11:21AM 8 A Yes, sir.

11:21AM 9 Q Did anyone help you with getting Michael Miske or his

11:21AM 10 brother to leave you alone?

11:21AM 11 A No, sir.

11:21AM 12 Q Did anyone make any phone calls on your behalf?

11:21AM 13 A No, sir.

11:21AM 14 Q Do you remember a -- do you remember a different person

11:21AM 15 named Mike?

11:21AM 16 A What is that, sir?

11:21AM 17 Q Do you remember a person named Mike not Mike Miske but a

11:21AM 18 different person?

11:21AM 19 A Yeah, that is his friend.

11:21AM 20 Q And did that Mike make any calls on your behalf?

11:21AM 21 A Initially he was going to help me.

11:21AM 22 Q Okay. And what -- what happened?

11:21AM 23 A And then everything stops.

11:21AM 24 Q Okay. So this other Mike made a call for you and then

11:21AM 25 everything stopped?

11:21AM 1 A Yeah.

11:21AM 2 Q Okay. And when you say everything stopped, what do you  
11:21AM 3 mean?

11:21AM 4 A All the stuff is just stopped like all the threats and  
11:21AM 5 stuff.

11:21AM 6 Q All the what?

11:22AM 7 A All the threats and stuff.

11:22AM 8 Q All the threats?

11:22AM 9 A Yes.

11:22AM 10 Q Okay. So after this other Mike made a call for you, no  
11:22AM 11 one came to visit you? No one called you anymore?

11:22AM 12 A No one, sir.

11:22AM 13 MR. AKINA: All right. Thank you. No other  
11:22AM 14 questions.

11:22AM 15 THE COURT: Cross?

11:22AM 16 CROSS-EXAMINATION

11:22AM 17 BY MR. KENNEDY:

11:22AM 18 Q Sir, I heard you say that John Stancil made a phone call  
11:22AM 19 to you, correct?

11:22AM 20 A Yes, sir.

11:22AM 21 Q And that during that phone call you said, "He was pissed"?

11:23AM 22 A Yes, sir.

11:23AM 23 Q Angry?

11:23AM 24 A Yes, sir.

11:23AM 25 Q And Mr. Stancil made a threat?

11:23AM 1 A Yes, sir.

11:23AM 2 Q And that was the one phone call you received from him?

11:23AM 3 A Yes, sir.

11:23AM 4 Q Okay. And then at some time after that, you went to your

11:23AM 5 business and your neighbor said some folks were looking for

11:23AM 6 you?

11:23AM 7 A Yes, sir.

11:23AM 8 Q Okay. And at that point, you made a decision to stop work

11:23AM 9 for a little while?

11:23AM 10 A Yes, sir. Until I figured out what I got to do.

11:23AM 11 Q Okay. And then in -- this was in 2014, right?

11:23AM 12 A Around that -- that year.

11:23AM 13 Q Okay. And then after that you -- I take it you had

11:23AM 14 already established your place of business?

11:23AM 15 A Yes, sir.

11:23AM 16 Q And I think it was Aloha Shine, is --

11:23AM 17 A Yes, sir.

11:23AM 18 Q Okay. And that was your own business that you had

11:24AM 19 started, right?

11:24AM 20 A Yes, sir.

11:24AM 21 Q Detailing?

11:24AM 22 A Yes, sir.

11:24AM 23 Q And is that the business that you're still operating

11:24AM 24 today?

11:24AM 25 A Yes, sir.



11:24AM 1 Q Okay. So Aloha Shine started sometime around 2014 and

11:24AM 2 we're up to 2024, right?

11:24AM 3 A Yes, sir.

11:24AM 4 Q So you've had your own business since that time, right?

11:24AM 5 A Yes, sir.

11:24AM 6 Q Okay. Now, I believe you said your reason for leaving was

11:24AM 7 you wanted to make more money, correct?

11:24AM 8 A Yeah, because the babysitting costs was like a thousand

11:24AM 9 dollars.

11:24AM 10 Q Right.

11:24AM 11 A And --

11:24AM 12 Q Go ahead, sir.

11:24AM 13 A Yeah. I couldn't afford that -- to pay rent at the same

11:24AM 14 time.

11:24AM 15 Q Okay. So I understood it at that time in 2014 when you

11:24AM 16 started your own business you had an -- an older son, correct?

11:24AM 17 A Yes, sir. He was in high school.

11:24AM 18 Q In high school, right?

11:25AM 19 A Yes, sir.

11:25AM 20 Q And he then started working with you at Aloha Shine,

11:25AM 21 right?

11:25AM 22 A Yes, sir.

11:25AM 23 Q And so now the two of you could have a business together,

11:25AM 24 right?

11:25AM 25 A Yes, sir, we help each other.

11:25AM 1 Q Okay. So it wasn't just you alone, you had your son to --

11:25AM 2 A Yeah, that's like maybe a year after.

11:25AM 3 Q Okay. Is he still working with you today?

11:25AM 4 A No, he went to Air Force now.

11:25AM 5 Q Okay. So then he worked with you and then he went into

11:25AM 6 the Air Force, right?

11:25AM 7 A Yes, sir.

11:25AM 8 Q Okay. Now, the additional monies that you had to pay for

11:25AM 9 babysitting as you had another child, right?

11:25AM 10 A What is that, sir?

11:25AM 11 Q Yes. You had a -- a second child?

11:25AM 12 A Yeah, yes, sir, yes, sir.

11:25AM 13 Q And so that --

11:25AM 14 A Yeah, that's my ten-year-old son.

11:25AM 15 Q Okay. And so then that younger son, you gained custody of

11:25AM 16 right around 2014, right?

11:25AM 17 A Yes, sir.

11:25AM 18 MR. AKINA: Your Honor, I'm going to object to this

11:25AM 19 line of questioning. It's been going on for a while on

11:26AM 20 relevance on grounds.

11:26AM 21 THE COURT: Overruled. Go ahead.

11:26AM 22 BY MR. KENNEDY:

11:26AM 23 Q And so that's when the thousand dollars and the

11:26AM 24 baby-sitting came up, right?

11:26AM 25 A Yes, sir. I was struggle that no one can watch my son

11:26AM 1 while I'm working.

11:26AM 2 Q Okay. So you then were able to watch your son and also do  
11:26AM 3 your business at times which were more convenient for you?

11:26AM 4 A Yes, sir.

11:26AM 5 Q Is that correct?

11:26AM 6 A Yes, sir.

11:26AM 7 Q Okay. Now, in the -- you were asked some questions the --  
11:26AM 8 you had a telephone conversation with Mr. Miske and I want to  
11:26AM 9 ask you some questions about that, okay?

11:26AM 10 A Yes, sir.

11:26AM 11 Q Now, one of the things that he didn't want to see you  
11:26AM 12 leave because you were very good at what you did, correct?

11:26AM 13 A Yes, sir.

11:26AM 14 Q And so during that conversation, one of the things he said  
11:26AM 15 to you was, "Hey, I -- I've advanced you pay on many times,"  
11:27AM 16 right?

11:27AM 17 A Yes, sir.

11:27AM 18 Q And he said, "Whenever you needed time off, I've been -- I  
11:27AM 19 gave it to you"?

11:27AM 20 A Yes, sir.

11:27AM 21 Q And then when you needed more work, he gave you extra days  
11:27AM 22 of work, right?

11:27AM 23 A Yes, sir.

11:27AM 24 Q And so he was pointing out things like, hey, I've tried to  
11:27AM 25 be flexible with you because he just wanted to keep you, right?

11:27AM 1 A Yes, sir.

11:27AM 2 Q All right. But you were determined to start your own  
11:27AM 3 business for your own reasons, right?

11:27AM 4 A Yes, sir.

11:27AM 5 Q Okay. And then back to that conversation, you had a green  
11:27AM 6 card at that time, right?

11:27AM 7 A Yes, sir.

11:27AM 8 Q And we'll get to this in a second, but I believe you said  
11:27AM 9 for maybe a year or a year and a half you were on payroll  
11:27AM 10 receiving checks, no cash during that time between 2011 and  
11:27AM 11 2014, right?

11:27AM 12 A Yes, sir.

11:27AM 13 Q So your immigration status was known to Mr. Miske in terms  
11:28AM 14 of your green card, Social Security number, and all those  
11:28AM 15 things?

11:28AM 16 A I got all that, sir.

11:28AM 17 Q I'm sorry?

11:28AM 18 A I have all that.

11:28AM 19 Q Right. And he did as well when he had payroll, right?

11:28AM 20 MR. AKINA: Objection, speculation.

11:28AM 21 THE COURT: Overruled. Go ahead.

11:28AM 22 BY MR. KENNEDY:

11:28AM 23 Q But you gave that to him, right?

11:28AM 24 A The what, sir?

11:28AM 25 Q Social Security number, right?

11:28AM 1 A Yeah, I gave all my paperwork when I started in the  
11:28AM 2 beginning. All my -- all my identification.

11:28AM 3 Q Okay. Now, you mentioned that there was kind of various  
11:28AM 4 things that you did for work. Some of them were personal for  
11:28AM 5 Mr. Miske and others and some of them were for the business,  
11:28AM 6 right?

11:28AM 7 A What do you mean by "personal," sir?

11:28AM 8 Q Bad question. My mistake. His personal cars you  
11:28AM 9 detailed, right?

11:28AM 10 A Personal call?

11:28AM 11 Q Yes. I think you mentioned a Porsche?

11:28AM 12 A Oh, the personal car, yeah, yes.

11:28AM 13 Q Volkswagons?

11:28AM 14 A Yes, sir.

11:28AM 15 Q And other vehicles, right?

11:28AM 16 A Yes, sir.

11:29AM 17 Q That were owned personally by him?

11:29AM 18 A Yeah, that's his car.

11:29AM 19 Q And that's what I meant by personal business.

11:29AM 20 A Oh, okay.

11:29AM 21 Q Okay. And then I believe you said that there were friends  
11:29AM 22 of his that also had you do personal work for them as well for  
11:29AM 23 their personal cars?

11:29AM 24 A Yes, sir.

11:29AM 25 Q Okay. Then on the business side, you mentioned you

11:29AM 1 detailed the commercial trucks and other vehicles, right?

11:29AM 2 A Yes, sir.

11:29AM 3 Q And the Kama'aina Termite and Pest Control had a number of  
11:29AM 4 trucks and vehicles, correct?

11:29AM 5 A Yes, sir. I keep them maintained, cleaned and looking  
11:29AM 6 good, sir.

11:29AM 7 Q All right. And so you detailed those as well?

11:29AM 8 A Yes, sir.

11:29AM 9 Q And many of those were pick-up trucks that various  
11:29AM 10 employees would have?

11:29AM 11 A Yes, sir.

11:29AM 12 Q Is that correct?

11:29AM 13 A Yes, sir.

11:29AM 14 Q All right. So your business with Mr. Miske was both the  
11:29AM 15 commercial trucks and vehicles and personal vehicles for  
11:29AM 16 others, right?

11:30AM 17 A Yes, sir.

11:30AM 18 Q Now, if I understand the payment system, you -- I think  
11:30AM 19 you said in the past that for the first couple months you were  
11:30AM 20 paid in cash to see how you would do, right?

11:30AM 21 MR. AKINA: Objection. That's not what he testified  
11:30AM 22 to.

11:30AM 23 THE WITNESS: Yes, sir.

11:30AM 24 MR. KENNEDY: Well, he just answered yes.

11:30AM 25 BY MR. KENNEDY:

11:30AM 1 Q And so after that preliminary period, then you were put on  
11:30AM 2 payroll entirely, correct, for a period of time a year to a  
11:30AM 3 year and a half?  
11:30AM 4 A Around that area, sir.  
11:30AM 5 Q Okay. And then sometime after that, it went to payroll  
11:30AM 6 and cash, right?  
11:30AM 7 A Yes, sir.  
11:30AM 8 Q Okay. And did you have an understanding that some of that  
11:30AM 9 cash payment was for personal business for Mr. Miske and  
11:30AM 10 others?  
11:30AM 11 A No.  
11:30AM 12 Q Okay. All right. Now, you were shown some phone numbers  
11:31AM 13 in the exhibit and you recognized the ones for Mr. Miske that  
11:31AM 14 he used over that time period, right?  
11:31AM 15 A Yes, sir.  
11:31AM 16 Q And the ones that the manager who you later remembered his  
11:31AM 17 name as Alfredo Cabael, correct?  
11:31AM 18 A Yes, sir.  
11:31AM 19 Q All right. When they looked in your phone, you -- you  
11:31AM 20 didn't identify any phone number for Mr. Stancil, correct?  
11:31AM 21 A Yes, sir.  
11:31AM 22 Q Okay. Now, and I believe you said that the one time  
11:31AM 23 that -- you said one instance, one instance only, you saw  
11:31AM 24 someone put a paper on a license plate, right?  
11:31AM 25 A Yes, sir.

11:31AM 1 Q That was Mr. Cabael, correct?

11:31AM 2 A Yes, sir.

11:31AM 3 Q All right. And other than that, you witnessed zero

11:32AM 4 criminal activity during your time between 2011 and 2014,

11:32AM 5 correct?

11:32AM 6 A No, sir.

11:32AM 7 Q And when you said, no, sir, you didn't see --

11:32AM 8 A I mean, I didn't see nothing, yeah.

11:32AM 9 MR. KENNEDY: Thank you. I have no further questions.

11:32AM 10 THE COURT: Redirect?

11:32AM 11 REDIRECT EXAMINATION

11:32AM 12 BY MR. AKINA:

11:32AM 13 Q When you said that you saw someone swapping the license

11:32AM 14 plate on that BMW, what did you mean by that?

11:32AM 15 A Just changing it, changing the -- the license plate.

11:32AM 16 Q So taking off one license plate and putting a new license

11:32AM 17 plate on it?

11:32AM 18 A Yes, sir.

11:32AM 19 Q So you were asked some questions about the conversation

11:33AM 20 you had with the defendant about how you mentioned things about

11:33AM 21 how he advanced pay for you. Do you remember that?

11:33AM 22 A Yes, sir.

11:33AM 23 Q And he mentioned that he gave you time off when you asked

11:33AM 24 it. Do you remember that?

11:33AM 25 A Yes, sir.



11:33AM 1 Q And so he was using these favors to try to hold it over

11:33AM 2 you to get you to do what he wanted, right?

11:33AM 3 A Yeah, to keep me stay.

11:33AM 4 Q To keep you staying. And in that same conversation, he

11:33AM 5 also threatened to have you deported, right?

11:33AM 6 A Yes, sir, something like that, sir.

11:33AM 7 MR. AKINA: No other questions.

11:33AM 8 THE COURT: Mr. Kennedy, anything else?

11:33AM 9 MR. KENNEDY: No, Your Honor.

11:33AM 10 THE COURT: Mr. Lapena, you may step down. Thank you.

11:33AM 11 THE WITNESS: Thank you.

12 --oo0oo--

13

14

15

16

17

18

19

20

21

22

23

24

25

1 COURT REPORTER'S CERTIFICATE

2 I, Gloria T. Bediamol, Official Court Reporter, United  
3 States District Court, District of Hawaii, do hereby certify  
4 that pursuant to 28 U.S.C. §753 the foregoing is a complete,  
5 true, and correct transcript from the stenographically reported  
6 proceedings held in the above-entitled matter and that the  
7 transcript page format is in conformance with the regulations  
8 of the Judicial Conference of the United States.

9

10 DATED at Honolulu, Hawaii, June 4, 2024.

11

12

13 /s/ Gloria T. Bediamol

14 GLORIA T. BEDIAMOL.

15 RMR, CRR, FCRR

16

17

18

19

20

21

22

23

24

25